

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-02-071

**IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF UNITED
GENERAL TITLE INSURANCE COMPANY,**

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of United General Title Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated June 7, 2001 (the "Report"), relevant examiner work papers, and all written submissions and rebuttals. The Commissioner enters findings of fact, conclusions and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was a corporation licensed by the Division and authorized to conduct the business of title insurance as defined by § 10-11-102(3), C.R.S.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on or about June 7, 2001, the Division completed a market conduct examination of the Respondent. The period of examination was July 1, 1999, to June 30, 2000.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners handbook. The Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined, or as ascertained from the testimony of the Respondent's officers or agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Order, the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A concerns the following violation: Failure to provide the required anti-fraud language on all printed applications for insurance, or on all insurance policies or on all claim forms made available by the Respondent. The Respondent shall provide evidence that it has adopted and implemented a complying practice to provide the required anti-fraud language on all printed applications for insurance, policies and claim forms provided. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue B concerns the following violation: Failure to maintain adequate policy records and/or other information necessary for reconstruction of the rating and/or underwriting of title policies issued by the Respondent, and failure to produce and/or maintain adequate claims records for market conduct review. The Respondent shall provide evidence that it has reviewed its procedures pertaining to record maintenance and assure that underwriting files will be maintained to contain information necessary for reconstruction of rating and underwriting. Additionally, Respondent shall amend its claims procedures to assure claim files will be maintained to show inception, handling and disposition of each claim in compliance with Colorado insurance law. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
11. Issue C concerns the following violation: Failure to provide written notification to prospective insureds of the Respondent's general requirements for the deletion of the standard exception or exclusion to coverage related to unfilled mechanic's or materialman's liens and/or mandatory GAP coverage. The Respondent shall

amend its underwriting guidelines and other procedures necessary to implement the requisite change in order that those procedures and guidelines will provide prospective insureds with written notification of the Respondent's general requirements for the deletion of its general exception or exclusion to coverage for unfiled mechanic's or materialman's liens and GAP coverage. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.

12. Issue D concerns the following violation: Misrepresenting the benefits, advantages, conditions or terms of insurance policies by omitting applicable endorsements. The recommendations in Issue D of this Report are amended as follows: Respondent shall demonstrate to the Division that it has amended its procedures so that each policy issued clearly evidences a complete contract.
13. Issue E concerns the following violation: Issuing title insurance policies without obtaining a certificate of taxes due or other equivalent documentation. The Respondent shall assure that, whenever it issues a title policy in Colorado, Respondent shall obtain a certificate of taxes due or other equivalent documentation for the subject property insured. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
14. Issue F concerns the following violation: Failure to provide adequate financial and statistical data of past and prospective loss and expense experience to justify certain title insurance charges and/or premium rates. The Respondent shall maintain adequate financial and statistical data of past and prospective loss and expense experience to justify its cited premium rates, fees and charges. The documents shall specifically identify how a reasonable profit provision is incorporated in the development of the Respondent's premium rates, fees and charges. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
15. Issue G concerns the following violation: Using rates and/or rating rules not on file with the Division and/or misapplication of filed rates and rating rules. The Respondent shall provide assurances that all future policies will be issued in accordance with its filed rates and all premium charges will accurately reflect rates on file with the Division.

The Commissioner amends the issue to order the Respondent to:

- a. Conduct a self-audit of rate, premium, charge and fee calculations for calendar year 2002. Respondent may employ an independent auditing firm to conduct the audit. This self-audit shall consist of an examination of 100 randomly selected files regarding policies and commitments quoted and written during the calendar year, along with any related closing and settlement services provided. Respondent shall prepare a written report summarizing the audit. Relevant officers of the Respondent or the independent auditing firm shall

certify that they have reviewed all elements of the audit. Respondent shall submit the audit reports to the Division no later than March 31, 2003.

- b. If the audit reveals an error ratio in excess of 5%, Respondent shall continue to perform annual audits and submit the reports in the manner described in subparagraph (a) above until Respondent can demonstrate compliance to the satisfaction of the Division.
 - c. An error occurs when Respondent fails to use the rates, fees or charges on file with the Division or maintained pursuant to SB 00-106 whether the rates, fees or charges are in excess of or less than the filed rates or maintained schedule of fees.
 - d. "Error ratio" is the number of files in which a material error is made, divided by the total number of audited files.
 - e. "Material error" means an error of ten dollars (\$10) or more.
16. Issue H concerns the following violation: Engaging in unfair discriminatory rating practices and adopting rate rules and/or premium charges that are excessive, inadequate or unfairly discriminatory. The Respondent shall provide evidence demonstrating that it has amended its Colorado Rating Manual and withdrawn any other filed rates and/or rating rules so that the material excludes any excessive or unfairly discriminatory rates. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
17. Issue I concerns the following violation: Failure to implement standards for the prompt investigation of claims. The Respondent shall provide evidence demonstrating that it has amended and/or implemented its practices to assure compliance with Colorado insurance law.
18. Issue J concerns the following violation: Failure to acknowledge and/or act promptly upon communications with respect to claims arising under insurance policies. The Respondent shall provide evidence demonstrating that it has amended its practices to assure compliance with Colorado insurance law.
19. Issue K concerns the following violation: Failure to file a Colorado uniform financial reporting plan and/or failure to submit an annual filing of sufficient financial data to justify Respondent's rates. The Respondent shall amend its procedures to ensure compliance with the filing requirements contained in § 10-11-118, C.R.S. The Division's records indicate that Respondent has complied with the corrective actions ordered concerning this violation.
20. Pursuant to § 10-1-205(3)(d), C.R.S., Respondent shall pay a civil penalty to the Division in the amount of twelve thousand two hundred fifty and 00/100 dollars

(\$12,250.00). This fine represents a combined fine for the cited violations of Colorado law.

21. All requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to both the rate and forms section and the market conduct section. All audits must be received by the Division within the time frames in this Order, with a summary of the findings, including any and all monetary payments to covered persons.
22. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.
23. Copies of the examination, the Respondent's explanation, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final Report dated June 7, 2001, are hereby adopted as may be modified by this Order, and are filed and made an official record of this office. The above Order is hereby approved this 9th day of October, 2001.

A handwritten signature in black ink, appearing to read "Kirven" followed by a stylized circular flourish.

William J. Kirven III
Commissioner of Insurance